

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

ALLEN ALEXANDER PARKS,

Plaintiff,

v.

BOARD OF COUNTY COMMISSIONERS
OF OKLAHOMA COUNTY, *et al.*,

Defendants.

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Case No. CIV-20-205-D

ORDER

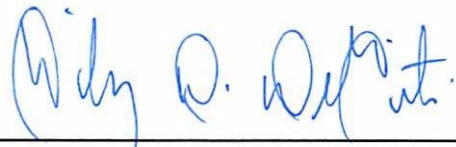
This matter comes before the Court for review of the Report and Recommendation [Doc. No. 8] issued by United States Magistrate Judge Shon T. Erwin pursuant to 28 U.S.C. § 636(b)(1)(B). Judge Erwin recommends the dismissal of this civil rights action based on Plaintiff's failure to pay the initial partial filing fee of \$10.99, as required by 28 U.S.C. § 1915(b)(1) and the Order Granting Leave to Proceed *In Forma Pauperis* [Doc. No. 7], and his failure to show cause for nonpayment.

Within days after the R&R, the Clerk received Plaintiff's Motion [Doc. No. 9] requesting an extension of time to pay the initial partial filing fee and stating reasons why timely payment was not made. The Motion is dated and was mailed (according to the postage stamp) before the R&R was issued. Also, within the time period for filing an objection, Plaintiff's payment of \$10.99 was received. *See* Receipt [Doc. No. 10]. Under these circumstances, the Court finds that Plaintiff's untimely payment should be excused and that his case should not be dismissed.

IT IS THEREFORE ORDERED that the Report and Recommendation [Doc. No. 8] is NOT ADOPTED. Plaintiff's Motion for an Extension of Time [Doc. No. 9] is GRANTED and his untimely payment is excused.

IT IS FURTHER ORDERED that this case is re-referred to Judge Erwin for further proceedings consistent with the original referral order.

IT IS SO ORDERED this 6th day of May, 2020.



TIMOTHY D. DeGIUSTI
Chief United States District Judge